IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

Crl.MC.No. 3148 of 2007()

CRMP.5031/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II,PATHANAMTHITTA

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PETITIONER:

JOHNSON, S/O.THOMAS, VAYARKUNNIL VEEDU,
NEDUMPRAYAR,
THOTTAPPUZHASSERI VILLAGE, THIRUVALL TALUK.

BY ADV. SRI.V.SETHUNATH

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE, KOIPURAM POLICE STATION
2. THE STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3148 of 2007

Dated this the 2nd day of November, 2007

O R D E R

The petitioner's vehicle was allegedly involved in an offence committed under the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. The vehicle was seized. The petitioner filed an application for release of the vehicle. The learned Magistrate, by the impugned order, allowed the petition and directed release. But imposed the condition, inter alia, that the petitioner must produce bank guarantee for Rs.5 lakhs - allegedly the value of the vehicle. The petitioner claims to be aggrieved by the onerous nature of the condition imposed. He prays that the said condition may be deleted and the petitioner may be permitted to execute a bond and get release of the vehicle.

2. The learned Public Prosecutor opposes the prayer vehemently. The learned Public Prosecutor submits that the sequence of events in this case has persuaded the learned Magistrate to impose such an onerous condition. From the facts and circumstances of the case, the imposition of such condition must be held to be absolutely justified.

3. The learned Public Prosecutor submits that earlier, the same vehicle was involved in the commission of an offence under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. Then owner of the vehicle had gone before the Court and the same vehicle was released to the said owner on the normal and ordinary conditions. He had taken delivery of the vehicle. During the pendency of the said proceedings, the vehicle has again been used for commission of the offence and it is then that the petitioner has come before the Court with a claim that he is the present owner of the vehicle, as per an agreement.

4. I have considered all the relevant inputs. In the peculiar facts and circumstances of the case, I am satisfied that the learned Magistrate is absolutely justified in imposing the said condition. I am not persuaded to agree that the condition imposed does warrant interference in the facts and circumstances of the case. At any rate, I am convinced that the extraordinary inherent jurisdiction available to this Court under Section 482 Cr.P.C is to be invoked only sparingly and in exceptional cases that too in aid of justice. It does not deserve to be invoked in favour of the petitioner in the facts of this case.

5. This Crl.M.C is, in these circumstances, dismissed. If the petitioner does not take delivery of the vehicle, the learned

Magistrate must, to ensure that there is no unnecessary damage and destruction of the vehicle, proceed to consider how better the vehicle can be dealt with during the pendency of the proceedings.

(R.BASANT, JUDGE)

rtr/-